UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 August 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

     4a) Of the above claim(s) *6-15* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 16-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Election/Restrictions

1.   Applicant's election without traverse of claims 1-5 and 16-20 in the reply filed on 12/19/2006 is acknowledged.

Response to Arguments

2.   Applicant's arguments filed 8/20/2007 have been fully considered but they are not persuasive.

3.   Applicant argued the rejection of claims 1-10 and 16-20 was erroneous and contrary to controlling law. See <u>In re Nuitjen</u> (Fed. Cir. 2007). See Annex IV of Interim Guidelines for determining Patentable Subject Matter. See MPEP 2106.01.

4.   Applicant apparently argued Holmes failed to disclose *an enterprise protocol which is not one of said plurality of protocols*.   The proprietary protocol in column 3, lines 35-37 is the enterprise protocol which is not one of said plurality of protocols. Applicant argued no conversion of formats occurred. See column 3, lines 35-37.

5.   Applicant argued claim 2 was allowable because the conversion was not taught in claim 1. See paragraph 4. Applicant argued Holmes failed to disclose an adapter. The TCP/IP protocol (column 3, line 37) references each specialized protocol with a port. SMTP – Simple Mail Transport Protocol – is affiliated with port 25. Hypertext Transport Protocol – HTTP is affiliated with port 80. Each of these ports is the equivalent of Applicant's claimed adapters.

6.   The limitations of claims 16-20 are substantially the same as the limitations of claims 1-5. In regard to claim 17, the connectors are treated as the equivalent of the TCP ports described in paragraph 5 above.

7.   Applicant argued there was no motivation to put the Holmes invention in a housing. Beyond the basic reasons provided in the prior office action of putting a computer in a box to fit space and power requirements, it would have been even further obvious to one of ordinary skill in the art to put components in a housing, case, or box to protect them from static electricity, dust, insects, spilled soft drinks, rodents,

accidental dislodgement of parts, and myriad other reasons for anyone to put a computer in a box,

including aesthetic design choice.

8.   As the amendments to the claims allow claims 5 and 20 to be properly treated now, appropriate

art rejections are provided below.

Claim Rejections - 35 USC § 101

9.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

10.   Claims 1-5 and 16-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter. Claims 1-5 and 16-20 seem to be directed to software *per se*, and not

towards any embodiment of hardware. See MPEP 2106.01.

Claim Rejections - 35 USC § 102

11.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for

the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

12.   Claims 1-3, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Holmes (U.S.

Patent No. 5,790,809).

13.   In regard to claim 1, Holmes discloses *a first user terminal for entering a first transaction request,*

wherein said first transaction request has a first one of a plurality of protocols (Holmes, column 3, lines

15-21*), responsively coupled via a publicly available digital communication network to an enterprise*

server for responding to said first transaction request using an enterprise protocol which is not one of said

plurality of protocols (Holmes, column 3, lines 7-17, lines 28-38) *the improvement comprising: a. a second*

user terminal for entering a second transaction request wherein said second transaction request has a

second one of said plurality of protocols which is different from said first one of said plurality of protocols

responsively coupled to said enterprise server via said publicly available digital communication network;

and b. a generic gateway interposed between said first user terminal and said enterprise server and between said second user terminal and said enterprise server which responsively couples said first user terminal and said second user terminal to said enterprise server by converting said first one and said second one of said plurality of protocols to said enterprise protocol. Applicant has claims a system that changes a protocol to another protocol for transmission over a network and then converts it to a third protocol for delivery. Holmes, column 3, discloses using a Registry program to accept requests under a protocol for a client application, encapsulating them and converting into a proprietary protocol, and delivering to the server application by converting from the proprietary protocol to a message recognizable to the server application. The process works in reverse for sending a message from the server to the client. See Holmes, column 3, lines 6-48.

14.   In regard to claim 2, Holmes is applied as in claim 1. Homes further discloses *a plurality of adapters interposed between said generic gateway and said first user terminal and said second user terminal which responsively couples said first user terminal to said generic gateway via a first one of said plurality of adapters which corresponds to said first one of said plurality of protocols and which responsively couples said second user terminal to said generic gateway via a second one of said plurality of adapters which corresponds to said second one of said plurality of protocols.* Each transmission on a network would inherently be send using a port in affiliation with a particular protocol, based on basic TCP/IP theory. Using a port would be using an adapter.

15.   In regard to claim 3, Holmes is applied as in claim 2. Holmes further discloses *said publicly available digital communication network further comprises the internet.* See Holmes, column 4, lines 5-10.

16.   In regard to claim 16, Holmes discloses *a. first generating means for generating a first service request using a first one of a plurality of protocols; b. second generating means for generating a second service request and different one of a plurality of protocols; c. transferring means responsively coupled to said generating means for transferring said first service request and said second service request via a publicly accessible digital data network; d. adapting means responsively coupled to said publicly accessible digital data network for adapting said first service request and said second service request to a*

standardized protocol using a different one of a plurality of adapters to convert said first service request

and said second service request; and e. processing means responsively coupled to said adapting means

for processing said first service request and said second service request via a generic gateway. The

limitations of claim 16 are substantially the same as the limitations of claim 1. The rejection of claim 1 is

used against claim 16.

17.   In regard to claim 17, Holmes is applied as in claim 16. Holmes further discloses *means*

responsively coupled to said processing means for transferring said first service request and said second

service request to an end service provider via a plurality of connectors. Holmes accepts data and

converts it between protocols during delivery of the message. See Holmes, column 3. In regard to claim

18, Holmes as applied in claim 17 further discloses *wherein said one of said plurality of adapters*

corresponds to said one of said plurality of connectors. The limitations of claims 17-18 are substantially

the same as the limitations of claim 2. The rejection of claim 2 is applied against claims 17-18.

18.   In regard to claim 19, Holmes is applied as in claim 18. Holmes further discloses *said publicly*

accessible digital data communication network is the Internet. See Holmes, column 4, lines 5-10.

Claim Rejections - 35 USC § 103

19.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

20.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes.

21.   In regard to claim 4, Holmes has taught the services of a *generic gateway* and teaches a

middleware environment as shown in the rejections of claims 1 and in Holmes, column 4, lines 1-10.

Holmes has not specifically stated that these elements were present in an Industry Standard Server

housing. However, it is well known to one of ordinary skill in the art that computer parts are highly

interchangeable. It would have been obvious to one of ordinary skill in the art to put any portion or

combination of the elements in the Holmes invention in any type of housing, including an "Industry

Standard Server" housing, in order to fit the space and power requirements of the elements in question.

22.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes in view of Gibson

et al. (US 5,758,351).

23.   In regard to claim 5, Holmes failed to disclose the use of Visual Basic. However, Gibson in

column 8, lines 3-15 discloses the use of Visual Basic as a programming language tool for use in

implementing a request system for use in server environments. Therefore, it would be obvious to one of

ordinary skill in the art to use any programming language such as Visual Basic with Holmes to allow for

flexibility in programming and server environments.

24.   Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes in view of

Gibson.

25.   In regard to claim 20, Holmes failed to disclose the use of C++. However, Gibson in column 8,

lines 3-15 discloses the use of C++ as a programming language tool for use in implementing a request

system for use in server environments. Therefore, it would be obvious to one of ordinary skill in the art to

use any programming language such as C++ with Holmes to allow for flexibility in programming and

server environments.

<div align="center">

Conclusion

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26.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

        Devine et al.   US 6,385,644 B1

27.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth

in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can

normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC)

at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative

or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000.

/Jason D Cardone/
Supervisory Patent Examiner
Art Unit 2145

JRS